

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Operation of golf carts, utility vehicles, and low-speed vehicles

Section 316.212, F.S., generally prohibits the operation of a golf cart¹ upon the public roads or streets of this state, but provides a process for local governments to identify roads in the county or municipality that may safely carry golf carts. The statute requires the county or municipality to formally determine that the road is the only available public road along which golf carts may travel (or the safest of several alternatives). The local government must consider the speed, volume, and character of motor vehicle traffic using the road or street. After the determination is made, the local government must post appropriate signs to indicate that golf-cart operation is allowed.

The Department of Highway Safety and Motor Vehicles (DHSMV) must review and approve all locations where a local government's golf-cart-approved roads intersect the State Highway System (SHS), or when the local roads are actually part of the SHS, but have been designated for transfer to a local government.²

Two other golf-cart operation possibilities are also outlined in s. 316.212, F.S.:

- To cross, at midblock, a part of the SHS where a golf course is constructed on both sides of the highway if DHSMV has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes; and
- A golf cart may also be used by residents to cross a road where a single mobile home park is located on both sides of the road and is divided by the road. The governmental unit responsible for the road must approve the crossing location and may require necessary traffic controls.

Under all of the above conditions, a golf cart may be operated only between sunrise and sunset, unless the responsible governmental entity has determined that a golf cart may be operated during the hours

¹ Section 320.01(22), F.S., provides that "golf cart" means a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. For purposes of Chapter 316, F.S., "golf cart" means a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes.

² See s. 335.0415, F.S.

between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.³

A golf cart must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.⁴ A golf cart may not be operated on public roads or streets by any person under the age of 14.⁵

A local governmental entity may enact an ordinance more restrictive than the requirements listed in statute, but such additional restrictions are applicable only to unlicensed drivers.⁶

Section 316.2125, F.S., authorizes the reasonable operation of golf carts within a retirement community, notwithstanding the provisions of s. 316.212, F.S., if equipped and operated as provided in s. 316.212(5), (6), and (7), F.S., within any self-contained retirement community unless prohibited. A local government or DHSMV may prohibit the operation of golf carts on any street or highway under their respective jurisdiction if either determines that such prohibition is necessary in the interest of safety.

Section 316.2127, F.S. contains requirements for utility vehicles⁷ that are substantially similar to those contained in s. 316.212, F.S., for golf-carts.

Section 316.2122(1)-(6), F.S., authorizes the operation of low-speed vehicles⁸ on a local road or on an urban minor arterial road with the following restrictions:

(1) A low-speed vehicle may be operated only on streets where the posted speed limit is 35 miles per hour or less. This does not prohibit a low-speed vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.

(2) A low-speed vehicle must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.

(3) A low-speed vehicle must be registered and insured in accordance with s. 320.02.

(4) Any person operating a low-speed vehicle must have in his or her possession a valid driver's license.

(5) A county or municipality may prohibit the operation of low-speed vehicles on any road under its jurisdiction if the governing body of the county or municipality determines that such prohibition is necessary in the interest of safety.

(6) The Department of Transportation may prohibit the operation of low-speed vehicles on any road under its jurisdiction if it determines that such prohibition is necessary in the interest of safety.

Municipal and State Park Exemptions

Notwithstanding the safety requirements discussed above, certain government employees or their agents are permitted to use golf carts and utility vehicles on local roads.

3 Section 316.212(5), F.S.

4 Section 316.212(6), F.S.

5 Section 316.212(7), F.S.

6 Section 316.212(8), F.S.

7 "Utility vehicles" are defined by s. 320.01, F.S. as

a motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but the term does not include any vehicle designed or used primarily for the transportation of persons or property on a street or highway, or a golf cart, or an all-terrain vehicle as defined in s. 316.2074, F.S.

8 Pursuant to s. 320.01(42), F.S., "Low-speed vehicle" means

any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122.

Section 316.2126, F.S., authorizes the use of golf carts and utility vehicles by both municipalities and state parks. In each case, the golf carts and utility vehicles must comply with the operational and safety requirements described above, and with any more restrictive ordinances enacted by the local governmental entity pursuant to s. 316.212(8), F.S., and anyone operating a golf cart or utility vehicles pursuant to s. 316.2126, F.S., must possess a valid driver's license.⁹

If a municipality uses golf carts or utility vehicles, the vehicles must be operated only by municipal employees for municipal purposes such as police patrol, traffic enforcement, and inspection of public facilities.¹⁰ If state roads are involved, they are restricted to operating on state roads with a speed limit of 30 miles per hour or less.¹¹

On public roads within the boundaries of a state park, state employees, park volunteers, and visitors are authorized to use golf carts and utility vehicles for uses authorized by the Division of Parks and Recreation, within the Department of Environmental Protection.

Law Enforcement Exception

Section 316.21265, F.S., authorizes the use of all-terrain vehicles, golf carts, low-speed vehicles, or utility vehicles by law enforcement agencies, notwithstanding any contrary provision of law, on any street, road, or highway in this state while carrying out its official duties. Such vehicles must be clearly marked as vehicles of a law enforcement agency and may be equipped with special warning lights, signaling devices, or other equipment approved or authorized for use on law enforcement vehicles. Additionally, the vehicle operator and passengers must wear safety gear, such as helmets, which is ordinarily required for use by operators or passengers on such vehicles.¹²

Proposed Changes

Notwithstanding statutory provisions requiring local governments and/or the Florida Department of Transportation to review and approve roads upon which golf carts and other vehicles may be safely operated, CS/CS/HB 405 states that "seasonal delivery personnel" are expressly permitted to operate certain types of vehicles upon public roads in a "residential area" with a speed limit of up to 35 miles per hour during the period from October 15 to December 31 of each year. "Residential area" is defined by the bill as an area zoned primarily or exclusively for single-family or multifamily residential use.

The bill specifies that low-speed and utility vehicles may be used on all residential area roads with a speed limit up to 35 mph. Golf carts may be used on all residential area roads:

- with a speed limit up to 30 mph, and
- with a speed limit up to 35 mph, unless the municipality has enacted an ordinance restricting such vehicles on roads with a speed limit greater than 30 mph.

All vehicles described by the bill may be outfitted with a trailer, and must be clearly marked with the name of the delivery service. The vehicles must meet the safety equipment requirements of s. 316.212(6), F.S. (detailed above), and may operate after sunset if, in addition to such requirements, they have suitable headlights and tail-lamps.

"Seasonal delivery personnel" are defined as employees of a licensed commercial delivery service having at least 10,000 employees. The packages delivered must have a maximum size of 130 inches for the combined length and girth and must not weigh more than 150 pounds.

9 Section 316.2126(3), F.S.

10 Section 316.2126(1)(a), F.S.

11 Section 316.2126(1)(c), F.S.

12 Section 316.21265(3), F.S.

B. SECTION DIRECTORY:

Section 1 Amends s. 316.2126, F.S., defining the term “golf cart,” residential area,” and “seasonal delivery personnel;” authorizing the use of golf carts, low-speed vehicles, and utility vehicles by seasonal delivery personnel during a certain timeframe; requiring specified vehicles to be equipped with safety equipment.

Section 2 Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments, below.

D. FISCAL COMMENTS:

DOT notes the following:

The fiscal impact to [DOT], local governments, motorists, and owners and drivers of the subject carts and vehicles is unquantifiable, but is expected to be... significant, in the form of costs associated with increased property damage, bodily injury, fatalities, and litigation due to crashes. Increased traffic congestion and travel time delays are also expected.¹³

It should be noted that the ‘costs’ identified by DOT are not governmental costs but are potential costs to the private sector. In addition, DOT’s fiscal analysis did not include potential positive fiscal impacts resulting from fewer trucks on the road, lower costs to delivery service businesses, and fuel savings due to the use of more efficient delivery vehicles.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

13 Memo from Stephanie Kopelousos, Secretary, Florida Department of Transportation, to the Roads, Bridges & Ports Policy Committee, Feb. 12, 2009.

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The apparent intended activity under the bill – *i.e.*, the transportation and delivery of goods sent through a delivery service -- appears to directly conflict with the current definition of “utility vehicle,” which expressly provides that the term does *not* include any vehicle designed or used primarily for the transportation of persons or property on a street or highway.¹⁴

DOT has indicated that the relative light weight, low speed, and low profile characteristics of these carts and vehicles, compared to automobiles, trucks, and commercial trucks, makes these vehicles especially dangerous for the occupants, as they have no crash worthiness or occupant protection features and are not engineered for operation in mixed traffic. “Collision with an automobile, truck, or commercial truck will inevitably result in property damage, serious bodily injury, or fatality for the occupants of the lighter, slower, less visible carts and vehicles.”¹⁵

These safety concerns are primarily based on DOT’s conclusion that “mixing these carts and vehicles with automobile, truck, and commercial vehicle traffic will place operators and passengers at significant risk and is counter to the Department’s mission of reducing serious injuries and fatalities on the state highway system.”¹⁶

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 4, 2009, the Roads, Bridges, and Ports Policy Committee reported the bill favorably without amendment.

On March 19, 2009, the Insurance, Business & Financial Affairs Policy Committee adopted a “strike-all” amendment which made the following changes:

- Substituted the term “delivery service” with the phrase: *licensed commercial delivery service*
- Substituted the term “goods” with the phrase: *express envelopes and packages, with a maximum size of 130 inches for the combined length and girth and weighing not more than 150 pounds*
- Defines the term “golf cart” for the purposes of the subsection

On April 14, 2009, the Economic Development & Community Affairs Policy Council adopted a strike-all amendment which made technical changes to the bill, provided a definition of “residential area,” and limited the definition of “seasonal delivery personnel” to include only employees of a ‘licensed’ commercial delivery service having at least 10,000 Florida employees. The strike-all provides that certain golf-cart operations under the bill may be restricted in municipalities that have enacted ordinances restricting operation on roads with a speed limit greater than 30 miles-per-hour. It also removes references to undefined “modified carts.”

The staff analysis has been written to reflect the council substitute.

14 *Id.*

15 *Id.*

16 *Id.*